

Remarks/Arguments

The Notice of Non-Compliant Amendment asserted that the Amendment filed January 18, 2008, was not compliant because “Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.”

Applicants traverse the holding of Non-Compliant Amendment because Applicants believe that the Examiner is in error because no complete listing of the claims was necessary. The Notice of Non-Compliant Amendment is applicable only if Applicants have amended the claims. A complete listing of the claims is required only if the claims have been amended in the Response.

By way of confirmation of a telephone interview between the Ms. Christine Judge, Administrative Assistant to the undersigned attorney, and Examiner Wilson on February 28, 2008, and his supervisor Joseph Hail, on February 26, 2008, it was agreed that the Notice of Non-Compliant Amendment was improvidently issued. However, in order to avoid any further delays in examination of the merits of this application, Applicants have resubmitted the Response to the Restriction Requirement with all the original claims listed.

In the Office Action mailed January 8, 2008, the Examiner required restriction between the apparatus claims 1-45 and the method claims 46-49. Applicants elect, with traverse, claims 1-45, drawn to an apparatus.

Applicants believe that the subject matter of the apparatus claims and the method claims are so closely related that a search of the apparatus art as well as the method art to adequately examine either set of claims. As the Examiner knows, patents are issued with both method and apparatus claims in this art and, whereas they may be originally classified in the apparatus art, and they will also be cross-referenced to the method art. The Examiner must be concerned with disclosure and not claimed subject matter. Thus, even though the claimed subject matter of a patent may be a method, the disclosure may well have significant apparatus structure which may provide relevant prior art for apparatus claims. Thus, it is believed that there is no burden on the Examiner for examining both sets of claims in this application.

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Examiner: Lee D. Wilson
Group Art Unit: 3723

An action on the merits is respectfully requested.

Respectfully submitted,

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